

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Lanagan Post Office
Lanagan, Missouri

Docket No. A2012-62

ORDER AFFIRMING DETERMINATION

(Issued February 14, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 8, 2011, David and Donna Willet (Petitioners) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Lanagan, Missouri post office (Lanagan post office).² The Final Determination to close the Lanagan post office is affirmed.³

II. PROCEDURAL HISTORY

On November 28, 2011, the Commission established Docket No. A2012-62 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On November 23, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

On January 13, 2012, the Public Representative filed a reply brief.⁷

² Petition for Review received from David and Donna Willet regarding the Lanagan, Missouri post office 64847, November 8, 2011(Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 1003, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 28, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 23, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Lanagan, Missouri Post Office and Continue to Provide Service by Highway Contract Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, January 4, 2012 (Postal Service Comments). A Motion of the United States Postal Service for Late Acceptance of Comments Regarding Appeal was also filed on January 4, 2012. The motion is granted.

⁷ Reply Brief of the Public Representative, January 13, 2012 (PR Reply Brief).

III. BACKGROUND

The Lanagan post office provides retail postal services and service to 172 post office box or general delivery customers. Final Determination at 2. Twenty-two (22) delivery customers are served through this post office. The Lanagan post office, an EAS-11 level facility, provides retail service from 7:45 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday, and 10:30 a.m. to 12:15 p.m. on Saturday. Lobby access hours are 7:45 a.m. to 4:45 p.m., Monday through Friday, and 10:30 a.m. to 12:15 p.m. on Saturday. *Id.*

The postmaster position became vacant on October 2, 2008, when the Lanagan postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the post office. Retail transactions average 21 transactions daily (20 minutes of retail workload). Post office receipts for the last 3 years were \$50,916 in FY 2008; \$32,794 in FY 2009; and \$30,313 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$37,304 annually. *Id.* at 10.

After the closure, retail services will be provided by the Pineville post office located approximately 6 miles away.⁸ *Id.* at 2. Delivery service will be provided by highway contract route service through the Pineville post office. The Pineville post office is an EAS-16 level post office, with retail hours of 8:00 a.m. to 12:30 p.m. and 1:30 p.m. to 4:00 p.m., Monday through Friday, and 9:00 a.m. to 11:00 a.m. on Saturday. Two-hundred-twenty-six (226) post office boxes are available. *Id.* The Postal Service will continue to use the Lanagan name and ZIP Code. *Id.* at 3, Concern No. 5.

⁸ MapQuest estimates the driving distance between the Lanagan and Pineville post offices to be approximately 5.8 miles (13 minutes driving time). Retail services are also available at the Anderson post office, an EAS-18 level post office with retail hours of 8:30 a.m. to 4:00 p.m., Monday through Friday, and 8:30 a.m. to 10:30 a.m. on Saturday. At the Anderson post office, three-hundred-thirty-four (334) post office boxes are available. MapQuest estimates the driving distance between the Lanagan and Anderson post offices to be approximately 3.6 miles (5 minutes driving time).

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Lanagan post office. Petitioners claim that the Postal Service did not consider the effect of the closing on the Lanagan community, citing specifically their own loss of the use of a post office box that they have used for over 30 years. Petition at 1. They suggest that the Lanagan post office be relocated to Lanagan City Hall instead. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Lanagan post office. Postal Service Comments at 2. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services; and (2) the impact on the Lanagan community. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Lanagan post office should be affirmed. *Id.* at 12.

The Postal Service explains that its decision to close the Lanagan post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the Lanagan community when the Final Determination is implemented. *Id.* at 12.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the effect on postal services and on the Lanagan community, economic savings, and the effect on postal employees. *Id.* at 12.

Public Representative. With respect to the effect that closing the Lanagan post office will have on the community, the Public Representative notes that the Postal Service considered inputs from the community by distributing questionnaires, holding a community meeting, and responding to customers' concerns about the closing. PR Reply Brief at 5. The Public Representative questions whether the Postal Service will realize the full amount of its estimated cost savings. *Id.* at 6. Nonetheless, the Public Representative concludes that the Postal Service has followed applicable procedures, that its decision to close the post office was not arbitrary or capricious, that its decision was supported by substantial evidence, and that its decision should therefore be affirmed. *Id.* at 5-6.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On May 4, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Lanagan post office. Final Determination at 2. A total of 200 questionnaires were distributed to delivery customers of the Lanagan post office. Other questionnaires were made available at the retail counter of the Lanagan post office. A total of 76 questionnaires were returned. On May 31, 2011, the Postal Service held a community meeting at the Lanagan City Hall to address customer concerns. Fifty-eight (58) customers attended. *Id.*

The Postal Service posted the proposal to close the Lanagan post office with an invitation for comments at the Lanagan, Pineville, and Anderson post offices from June 25, 2011 through August 26, 2011. *Id.* The Final Determination was posted at the same three post offices from October 7, 2011 through November 8, 2011. *Id.* at 1.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service

will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Lanagan is an incorporated community located in McDonald County, Missouri. Administrative Record, Item No. 16. The community is administered politically by the McDonald County Courthouse. Police protection is provided by the McDonald County Sheriff. Fire protection is provided by the Lanagan Volunteer Fire Department. The community is comprised of retirees, people living in senior housing, low income individuals, and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Lanagan community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Lanagan post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 8-9.

Petitioners raise the issue of the effect of the closing on the Lanagan community. Petition at 1. The Postal Service acknowledges that communities require regular and effective postal services and indicates that it will continue to provide these to Lanagan. Postal Service Comments at 9. It notes that nonpostal services can be provided by the Pineville post office in the future. *Id.* at 10. It asserts that it will help preserve the community identity by continuing the use of the suspended post office name and ZIP Code in addresses and in the National Five-Digit ZIP Code and post office directory. *Id.* Finally, the Postal Service notes that Lanagan residents may continue to meet informally, socialize, and share information at the other businesses, churches, and residences in town. *Id.* at 9-10.

The Public Representative finds that the Postal Service has considered input from the community by distributing questionnaires holding a community meeting, and responding to customer concerns about the closure of the Lanagan post office. PR Reply Brief at 5.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Lanagan postmaster retired on October 2, 2008 and that an OIC has operated the Lanagan post office since then. Final Determination at 10. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. *Id.* at 11.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Lanagan post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Lanagan customers. Postal Service Comments at 5. It asserts that customers of the closed Lanagan post office may obtain retail services at the Pineville post office located 6 miles away or the Anderson post office located 4 miles away. *Id.* at 2. Delivery service will be provided by highway contract route service through the Pineville post office. The Lanagan post office box customers may obtain Post Office Box service at the Pineville post office, which has 226 boxes available, or at the Anderson post office, which has 334 boxes available. *Id.*

For customers choosing not to travel to the Pineville or Anderson post offices, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* at 5-6.

Petitioners raise the issue of whether regular and effective postal service will be provided to the Lanagan community after the Lanagan post office is closed. Petition at 1. In particular, Petitioners express concern about losing the use of the post office box they have used for over 30 years. *Id.* The Postal Service contends that it will continue to provide effective and regular postal service to the Lanagan community. Postal Service Comments at 8. It asserts that the delivery and retail services that customers obtained at the Lanagan post office will now be provided by carriers. *Id.* at 7. And for customers who prefer Post Office Box service over rural delivery, the Postal Service indicates that those customers may obtain a post office box at the Pineville or Anderson post office. *Id.*

The Public Representative finds that the Postal Service adequately considered the importance of regular and effective postal service to the Lanagan community and its businesses. PR Reply Brief at 5-6.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$37,304. Final Determination at 10. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$4,089), minus the cost of replacement service (\$11,064). *Id.*

Petitioners do not challenge the accuracy of the Postal Service's calculation of cost savings. The Postal Service indicates that carrier service is more cost-effective than maintaining the Lanagan postal facility and postmaster position. Postal Service Comments at 11. The Public Representative, however, contends that the Postal Service's cost savings estimate is inflated because it fails to account for possible revenue loss caused by: (1) the loss of customers to competitors for certain services; and (2) the loss of post office box revenue due to customers switching to roadside highway contract route service. PR Reply Brief at 6.

The Lanagan post office postmaster retired on October 2, 2008. Final Determination at 2. The post office has since been staffed by a non-career OIC who,

upon discontinuance of the post office, may be separated from the Postal Service or reassigned. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Lanagan post office has been staffed by an OIC for approximately 3 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Lanagan post office is affirmed.⁹

It is ordered:

The Postal Service's determination to close the Lanagan, Missouri post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

⁹ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Lanagan post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on October 2, 2008. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

A non-career OIC has been in place for more than 3 years. Given this extended period of time, it is clear that the Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Lanagan. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The demographic characteristics of the community—the presence of retirees, senior citizen housing and low income families—indicate that Lanagan is a community that relies on postal services more than most. This community has fewer options for alternative access because many of its customers do not drive and do not have internet connectivity. As a result, the effect on the community was not adequately considered, to assure that the decision to close was not arbitrary.

The Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Lanagan, Missouri and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since August 2008, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition, the current lease does not terminate until November 30, 2013, and does not have a 30-day termination clause. Administrative Record, Item 15 at 1. The Postal Service should note that any savings from the lease will not be realized for at least 22 months. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Lanagan post office and should be remanded.

Nanci E. Langley